

117TH CONGRESS  
2D SESSION

# S. 4471

To provide relief for small businesses suffering extraordinary losses due to  
the COVID–19 pandemic.

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IN THE SENATE OF THE UNITED STATES

JUNE 23, 2022

Mr. CARDIN introduced the following bill; which was read twice and referred  
to the Committee on Small Business and Entrepreneurship

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## A BILL

To provide relief for small businesses suffering extraordinary  
losses due to the COVID–19 pandemic.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

**3 SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Hardest-Hit Small  
5       Business COVID Relief Act of 2022”.

**6 SEC. 2. TABLE OF CONTENTS.**

7       The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Definitions.
- Sec. 4. Hardest-Hit Small Business Relief Fund.
- Sec. 5. Grants from Fund.
- Sec. 6. Data transparency and customer service.
- Sec. 7. Business identifiers.

See. 8. Oversight and audits.  
See. 9. Gross receipts.  
See. 10. Rules.  
See. 11. Transfer of funds.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Small Business Administration.

6 (2) COVERED MORTGAGE OBLIGATION; COVERED RENT OBLIGATION; COVERED SUPPLIER COST; COVERED UTILITY PAYMENT; COVERED WORKER PROTECTION EXPENDITURE.—The terms “covered mortgage obligation”, “covered rent obligation”, “covered supplier cost”, “covered utility payment”, and “covered worker protection expenditure” have the meanings given the terms in section 7A(a) of the Small Business Act (15 U.S.C. 636m(a)).

15 (3) COVERED PERIOD.—The term “covered period” means the period—

17 (A) beginning on March 1, 2020; and  
18 (B) ending on March 31, 2023, or a date  
19 to be determined by the Administrator that is  
20 not later than 2 years after the date of enactment  
21 of this Act.

22 (4) ELIGIBLE ENTITY.—The term “eligible entity”—

- 1                             (A) means a small business concern (as de-  
2                             fined in section 3 of the Small Business Act (15  
3                             U.S.C. 632)) that has experienced substantial  
4                             losses resulting from the COVID–19 pandemic,  
5                             as determined by the Administrator;
- 6                             (B) may include—  
7                                 (i) a Tribally-owned concern;  
8                                 (ii) a sole proprietorship;  
9                                 (iii) an independent contractor; and  
10                                 (iv) an eligible self-employed indi-  
11                                 vidual; and
- 12                             (C) does not include—  
13                                 (i) an entity described in subpara-  
14                                 graph (A) that—  
15                                     (I) is a State or local govern-  
16                                     ment-owned or operated business; and  
17                                     (II) has a pending application for  
18                                     or has received a grant under—  
19   (aa) section 324 of the Eco-  
20                                     nomic Aid to Hard-Hit Small  
21                                     Businesses, Nonprofits, and  
22                                     Venues Act (15 U.S.C. 9009a);  
23                                     or

(bb) section 5003 of the American Rescue Plan Act of 2021 (15 U.S.C. 9009c);

(ii) a publicly-traded company;

(iii) an entity that is owned or operated by a private equity fund;

(iv) an entity that was not in operation before March 1, 2020; or

(v) an entity that is not in operation on, and does not intend to reopen on or before the date that is 180 days after, the date on which the entity applies for a grant.

19                             (6) EXCHANGE; ISSUER; SECURITY.—The terms  
20       “exchange”, “issuer”, and “security” have the  
21       meanings given those terms in section 3(a) of the  
22       Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).

(7) FUND.—The term “Fund” means the Hardest-Hit Small Business Relief Fund established under section 4(a).

6                             (9) PAYROLL COSTS.—The term “payroll costs”  
7        has the meaning given the term in section  
8        7(a)(36)(A) of the Small Business Act (15 U.S.C.  
9        636(a)(36)(A)), except that such term shall not in-  
10      clude—

(B) premiums taken into account in determining the credit allowed under section 6432 of the Internal Revenue Code of 1986.

(10) PRIVATE EQUITY FUND.—The term “private equity fund” has the meaning given the term in section 225.173(a) of title 12, Code of Federal Regulations, or any successor regulation.

(11) PUBLICLY-TRADED COMPANY.—The term “publicly-traded company” means an entity that is majority owned or controlled by an entity that is an

1       issuer, the securities of which are listed on a na-  
2       tional securities exchange.

3                     (12) TRIBALLY-OWNED CONCERN.—The term  
4       “Tribally-owned concern” has the meaning given the  
5       term in section 124.3 of title 13, Code of Federal  
6       Regulations, or any successor regulation.

7       **SEC. 4. HARDEST-HIT SMALL BUSINESS RELIEF FUND.**

8                     (a) ESTABLISHMENT.—There is established in the  
9       Treasury of the United States a fund to be known as the  
10      Hardest-Hit Small Business Relief Fund.

11                   (b) FUNDING.—

12                     (1) IN GENERAL.—The Fund shall consist of—  
13                             (A) amounts transferred under section 11;  
14                             and  
15                             (B) other amount appropriated to the  
16       Fund.

17                     (2) ADMINISTRATIVE EXPENSES.—Of the  
18       amounts transferred under section 11, \$80,000,000  
19       shall be for administrative expenses to carry out the  
20       program under this Act, of which \$20,000,000 shall  
21       be for the Inspector General of the Small Business  
22       Administration for necessary expenses of the Office  
23       of Inspector General.

1     **SEC. 5. GRANTS FROM FUND.**

2         (a) IN GENERAL.—Except as provided in subsection  
3         (c)(4), the Administrator shall make grants under this  
4         section to eligible entities in the order in which applica-  
5         tions are received by the Administrator.

6         (b) APPLICATIONS.—

7             (1) CERTIFICATION.—An eligible entity apply-  
8             ing for a grant under this section shall make a good  
9             faith certification that—

10                 (A) the uncertainty of current economic  
11             conditions makes necessary the request for the  
12             grant to support the ongoing operations of the  
13             eligible entity;

14                 (B) the eligible entity does not have a  
15             pending application for, and has not received, a  
16             grant under—

17                     (i) section 324 of the Economic Aid to  
18             Hard-Hit Small Businesses, Nonprofits,  
19             and Venues Act (15 U.S.C. 9009a); or

20                     (ii) section 5003 of the American Res-  
21             cue Plan Act of 2021 (15 U.S.C. 9009c);  
22             and

23                 (C) contains any other information that  
24             the Administrator may require.

25             (2) VERIFICATION MATERIALS.—The Adminis-  
26             trator shall use tax records and may, in addition,

1       use other reliable sources such as certified account-  
2       ing statements with respect to an applicant for a  
3       grant to determine—

4                     (A) the eligibility of the applicant for that  
5                     grant; and

6                     (B) the amount of that grant to the appli-  
7                     cant.

8                     (3) ACCEPTANCE OF APPLICATIONS.—Not later  
9       than 90 days after the date of enactment of this  
10      Act, the Administrator shall begin accepting applica-  
11      tions for grants under this section.

12                     (c) AMOUNT OF GRANT.—

13                     (1) IN GENERAL.—Subject to paragraph (4),  
14       the amount of a grant under this section made to an  
15       eligible entity shall be determined based on a for-  
16       mula to be established by the Administrator.

17                     (2) REDUCTION.—Any formula established by  
18       the Administrator to determine grant amounts  
19       under paragraph (1) shall reduce awards by  
20       amounts a recipient has received under—

21                     (A) section 1110 of the Coronavirus Aid,  
22       Relief, and Economic Security Act (15 U.S.C.  
23       9009);

(B) section 331 of the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (15 U.S.C. 9009b); or

(C) section 5002 of the American Rescue Plan Act of 2021 (15 U.S.C. 9009 note).

### (3) DETERMINATION OF REVENUE.—

(A) IN GENERAL.—When calculating the revenue of an entity for purposes of determining the eligibility of the entity for a grant under this section or the amount of such a grant, the Administrator shall treat as revenue—

(i) any amounts received from a covered loan made under paragraph (36) or (37) of section 7(a) of the Small Business Act (15 U.S.C. 636(a)), in 2020 or 2021; and

(ii) the amount by which the total of all remunerative payments made to an individual, including any annual salary paid to an employee, in 2020, or 2021, exceeds \$250,000.

(B) ADMINISTRATOR AUTHORITY.—The Administrator may determine the types of pay-

1               ments and individuals to which subparagraph  
2               (A)(ii) applies.

3               (4) INSUFFICIENT FUNDING.—

4               (A) IN GENERAL.—If the Administrator  
5               determines that the amounts made available to  
6               carry out this section are insufficient to make  
7               grants to each eligible entity in the amount pro-  
8               vided under paragraph (1), the Administrator  
9               shall distribute grants to all eligible applicants  
10               that submit an application during the 21-day  
11               period beginning on the date on which the Ad-  
12               ministrator begins accepting those applications  
13               on either—

- 14               (i) a pro rata basis; or  
15               (ii) based on a formula to be deter-  
16               mined by the Administrator.

17               (B) RESERVING FUNDS.—Nothing in sub-  
18               paragraph (A) shall prevent the Administrator  
19               from—

- 20               (i) reserving funding for applicants  
21               that may be determined to be eligible for  
22               a grant upon reconsideration; or  
23               (ii) making partial awards to eligible  
24               entities on a preliminary basis until the  
25               amount of funding required to fund grants

1           to all eligible entities that submit applica-  
2           tions is established upon the completion of  
3           the reconsideration process.

4         (d) USE OF FUNDS.—During the covered period, an  
5     eligible entity that receives a grant under this section may  
6     use amounts received for the following expenses incurred  
7     as a direct result of, or during, the COVID–19 pandemic:

8           (1) Payroll costs.

9           (2) Payments to independent contractors, as re-  
10          ported on Form 1099–MISC, except that each pay-  
11          ment under this paragraph shall be in an amount  
12          that is not more than \$100,000.

13          (3) Scheduled payments of interest or principal  
14          on any covered mortgage obligation (which may not  
15          include any prepayment of principal on a covered  
16          mortgage obligation).

17          (4) Payments on any covered rent obligation  
18          and common area maintenance charges under a  
19          lease agreement.

20          (5) Covered utility payments.

21          (6) Maintenance expenses.

22          (7) Covered worker protection expenditures.

23          (8) Supplies, including protective equipment  
24          and cleaning materials.

1                   (9) Expenses that were within the scope of the  
2                   normal business practice of the eligible entity before  
3                   the covered period.

4                   (10) Covered supplier costs.

5                   (11) Operational expenses.

6                   (12) Paid sick leave.

7                   (13) Any other expenses that the Administrator  
8                   determines to be essential to maintaining the eligible  
9                   entity.

10                 (e) RETURNING FUNDS.—If an eligible entity that re-  
11 ceives a grant under this section fails to use all of the  
12 amounts received under the grant on or before the last  
13 day of the covered period or permanently ceases operations  
14 on or before the last day of the covered period, the eligible  
15 entity shall return to the Treasury any funds that the eli-  
16 gible entity did not use for the allowable expenses under  
17 subsection (d).

18 **SEC. 6. DATA TRANSPARENCY AND CUSTOMER SERVICE.**

19                 The Administrator shall—

20                 (1) on a biweekly basis until the amounts made  
21                   available under this Act are fully expended, publish  
22                   data that shows, for the period beginning on the  
23                   date of enactment of this Act and ending on the  
24                   date on which the information is published—

1                             (A) with respect to applications for grants  
2                             under this Act, the number of those applica-  
3                             tions—

4                                 (i) that the Administrator has re-  
5                             ceived;

6                                 (ii) that the Administrator has re-  
7                             viewed or is in the process of reviewing;  
8                             and

9                                 (iii) with respect to which the Admin-  
10                             istrator has made a decision; and

11                             (B) the number and dollar amount of  
12                             grants—

13                                 (i) that are awarded; and

14                                 (ii) that are disbursed;

15                                 (2) on a weekly basis until the amounts made  
16                             available under this Act are fully expended, publish,  
17                             with respect to the period beginning on the date of  
18                             enactment of this Act, and ending on the date on  
19                             which the information is published—

20                             (A) with respect to each entity to which a  
21                             grant under this Act has been made—

22                                 (i) the name of the entity, including  
23                             the name under which the entity does busi-  
24                             ness if that name is different from the  
25                             name of the entity;

(ii) the address of the entity; and

(iii) if the physical location for the eli-

gible business listed on the application is

4 different from the address of the entity,

the address of such physical location; and

(B) the amount of each grant described in

7 paragraph (1); and

8 (3) with respect to an applicant that applies for

9 a grant under this Act and is denied by the Admin-

10 istrator—

(A) make available to the applicant a brief

12 explanation identifying the reason why the Ad-

13 ministrator denied the application of the appli-

14 cant, which shall include, where applicable, a ci-

15 tation to the statutory, regulatory, or guidance

provision with which the applicant failed to

comply and that was the basis for the denial;

18 and

(B) establish a reconsideration process

20 through which the applicant may—

21 (i) submit to the Administrator addi-

22 tional clarifying information the applicant

determines to be relevant to whether the

24 applicant is eligible for the grant; and

1 (ii) receive a second review of the ap-  
2 plication submitted by the applicant.

### **3 SEC. 7. BUSINESS IDENTIFIERS.**

4        In accepting applications for grants under this Act,  
5 the Administrator shall prioritize the ability of each appli-  
6 cant to use the existing business identifier of the applicant  
7 over requiring other forms of registration or identification  
8 that may not be common to the industry of the applicant,  
9 which may impose additional burdens on the applicant.

## 10 SEC. 8. OVERSIGHT AND AUDITS.

11       (a) IN GENERAL.—The Administrator shall institute  
12 an oversight and audit plan with respect to entities receiv-  
13 ing grants under this Act, which shall include—

22 (A) the review and audit, by the Adminis-  
23 trator, of grants made under this Act; and

(B) in the case of fraud or other material noncompliance with respect to a grant made under this Act—

(b) SUBMISSION OF PLAN.—Not later than 90 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives the plan required under subsection (a), which shall describe—

22 (c) REPORTS.—Not later than 90 days after the date  
23 of enactment of this Act, once every 30 days thereafter  
24 until the date that is 180 days after the date on which  
25 all amounts made available to carry out this Act have been

1 fully expended, and upon request thereafter, the Adminis-  
2 trator shall submit to the Committee on Small Business  
3 and Entrepreneurship of the Senate and the Committee  
4 on Small Business of the House of Representatives a re-  
5 port on the oversight and audit activities of the Adminis-  
6 trator under this section, which shall include—

7                 (1) the total number of grants under this Act  
8                 approved and disbursed;

9                 (2) the total amount of each grant under this  
10          Act received by each entity that received such a pay-  
11          ment;

12                 (3) the number of active investigations and au-  
13          dits of grants made under this Act;

14                 (4) the number of completed reviews and audits  
15          of grants under this Act, including a description  
16          of—

17                     (A) any findings of fraud or other material  
18          noncompliance;

19                     (B) questionable costs identified by the  
20          Administrator; and

21                     (C) the total amount recouped from ineli-  
22          gible recipients; and

23                 (5) a description of any substantial changes  
24          made to the plan required under subsection (a).

1   **SEC. 9. GROSS RECEIPTS.**

2       The Administrator may authorize applicants for  
3 grants under this Act to measure annual gross receipts  
4 using either the calendar year or fiscal year.

5   **SEC. 10. RULES.**

6       Not later than 60 days after the date of enactment  
7 of this Act, the Administrator shall issue rules to carry  
8 out this Act, without regard to the notice requirements  
9 under section 553(b) of title 5, United States Code.

10   **SEC. 11. TRANSFER OF FUNDS.**

11       (a) IN GENERAL.—The unobligated balances of  
12 amounts made available under the heading “Small Busi-  
13 ness Administration—Business Loans Program Account,  
14 CARES Act” in section 323(d)(1)(A) of division N of the  
15 Consolidated Appropriations Act, 2021 (Public Law 116–  
16 260; 134 Stat. 2019) for the cost of guaranteed loans as  
17 authorized under paragraphs (36) and (37) of section 7(a)  
18 of the Small Business Act (15 U.S.C. 636(a)) shall be  
19 transferred to the Fund.

20       (b) CARES ACT.—The unexpended balances of  
21 amounts made available under the heading “Small Busi-  
22 ness Administration—Business Loans Program Account,  
23 CARES Act” in section 1107(a)(1) of the Coronavirus  
24 Aid, Relief, and Economic Security Act (15 U.S.C.  
25 9006(a)(1)) shall be transferred to the Fund.

1       (c) SHUTTERED VENUES.—The unobligated balances  
2 in the account appropriated under the heading “Small  
3 Business Administration—Shuttered Venue Operators”  
4 shall be transferred to the Fund.

5       (d) AMERICAN RESCUE PLAN ACT.—

6           (1) IN GENERAL.—If the Administrator submits  
7 to Congress a certification described in paragraph  
8 (2), effective on the date of the certification, the un-  
9 obligated balances of amounts made available under  
10 section 5002(b) of the American Rescue Plan Act of  
11 2021 (15 U.S.C. 9009 note), including any of such  
12 balances that were transferred under section  
13 90007(b)(2) of the Infrastructure Investment and  
14 Jobs Act (Public Law 117–58; 135 Stat. 1347),  
15 shall be transferred to the Fund.

16           (2) CERTIFICATION OF SUFFICIENCY OF FUNDS  
17 FOR EIDL PROGRAM.—A certification described in  
18 this paragraph is a certification that, if the balances  
19 described in paragraph (1) are transferred, the Ad-  
20 ministrator will still have sufficient funds to make  
21 loans described in section 7(b)(2) of the Small Busi-  
22 ness Act (15 U.S.C. 636(b)(2)) to each entity de-  
23 scribed in section 1110(b) of the CARES Act (15  
24 U.S.C. 9009(b)) that submitted—

- 1                   (A) an application for such a loan on or  
2                   before December 31, 2021; or  
3                   (B) a request for a modification, rehearing,  
4                   or appeal in connection with an application for  
5                   such a loan on or before May 6, 2022.

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